

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

BILLY GIVENS

PLAINTIFF

v.

No. 4:20CV4-JMV

M.S.P. (UNIT 29) ADMINISTRATION, ET AL.

DEFENDANTS

MEMORANDUM OPINION

This matter comes before the court on the *pro se* prisoner complaint of Billy Givens, who challenges the conditions of his confinement under 42 U.S.C. § 1983. For the purposes of the Prison Litigation Reform Act, the court notes that the plaintiff was incarcerated when he filed this suit. For the reasons set forth below, the instant case will be dismissed for failure to state a claim upon which relief could be granted.

Allegations

On August 26, 2019, in the Day Room at Unit 29-G Building, B-Zone at the Mississippi State Penitentiary, inmate Marcus Robinson attacked plaintiff Billy Givens. However, Mr. Givens, rather than Mr. Robinson, was found guilty of a rule violation arising out of the attack. The punishment for the rule violation was 30 days loss of all privileges. In addition, as a result of the rule violation, Mr. Givens was reduced in custody and placed in a segregation unit. He filed a grievance to appeal the finding and expunge the violation from his record, but the grievance was denied.

No Violation of Due Process

Under the ruling in *Sandin v. Conner*, 515 U.S. 472, 115 S. Ct. 2293, 132 L. Ed. 2d 418 (1995), the plaintiff has not set forth a valid claim for violation of the Due Process Clause or any other constitutional protection. Though “[s]tates may under certain circumstances create liberty interests which are protected by the Due Process Clause, . . . these interests will be generally limited to freedom

from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force . . . nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” *Id.* 115 S. Ct. at 2300 (citations omitted). In *Sandin*, the discipline administered the prisoner was confinement in isolation. This discipline fell “within the expected parameters of the sentence imposed by a court of law,” *id.* at 2301, and “did not present the type of atypical, significant deprivation in which a State might conceivably create a liberty interest.” *Id.* Therefore, neither the Due Process Clause itself nor State law or regulations gave rise to a liberty interest providing the procedural protections set forth in *Wolff v. McDonnell*, 418 U.S. 539, 41 L. Ed. 2d 935 (1974). *See also Malchi v. Thaler*, 211 F.3d 953, 958 (5th Cir. 2000) (holding prisoner’s thirty-day loss of commissary privileges and cell restriction due to disciplinary action failed to give rise to due process claim).

In the present case, the plaintiff’s punishment was 30 days’ loss of privileges. Such punishment clearly “within the expected parameters of the sentence imposed by a court of law” and “did not present the type of atypical, significant deprivation in which a State might conceivably create a liberty interest.” *Sandin*, 115 S.Ct. at 2301. As such, the plaintiff’s allegations regarding violation of his right to due process are without merit, and the instant case will be dismissed for failure to state a claim upon which relief could be granted.

SO ORDERED, this, the 1st day of April, 2020.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE